THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.31635 of 1997

Dated: 31-10-2007

Between:

S.Venkataswamy.

..... PETITIONER

AND

The Special Deputy Collector, Land Acquisition, Warangal.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.31635 of 1997

ORDER:

The petitioner's land admeasuring Ac.0.38 guntas in survey No.352 situated at Ladella Village, Atmakur Mandal, Warangal District, was acquired in 1991 for constructing tail canal at KM.3.550 of 3R minor of DBM-31 in the limits of said village. The award, being award No.95/93-94, was passed on 12.11.1993. The Land Acquisition Officer awarded a total sum of Rs.24,592/- for the petitioner's land. The petitioner alleges that on 27.11.1993 the said amount was paid to him and on the same day he submitted an application requesting the respondent to refer the matter to civil Court under Section 18 of the Land Acquisition Act, 1894 (the Act, for brevity). The petitioner claimed a sum of Rs.60,000/- per acre. The reference was not made as requested by the petitioner, aggrieved by which the petitioner filed instant writ petition seeking a direction to the respondent to refer the matter to civil Court for determination of the compensation.

The respondent has not filed counter-affidavit. Nonetheless the learned Assistant Government Pleader for Land Acquisition has made submissions based on the draft counter/parawise remarks.

Sri Durga Prasad, learned counsel representing Sri A. Prabhakar Rao, the learned counsel for the petitioner, submits that the notice of award under Section 12(2) of the Act was not given to the petitioner and the amount was paid on 27.12.1993 and that on the same day, the petitioner submitted an application to the respondent requesting to refer the matter to civil Court for determination of the compensation as claimed. According to the learned counsel inaction of the respondent is illegal and arbitrary.

Per contra, the learned Assistant Government Pleader submits that the notice of award was given to the petitioner on 12.11.1993 itself, that the petitioner did not raise any protest at the time of receiving compensation and that the application annexed to the writ petition was not with the respondent within the time. She also submits that the writ petition is also barred by delay and laches.

It is not disputed that the award was passed on 12.11.1993. It is also not disputed that the petitioner did not file an application immediately after passing of the award. However, it is alleged that the petitioner filed application under Section 18 of the Act on 27.12.1993. This factum is also not proved before this Court. The Xerox copy of the application allegedly given by the petitioner is annexed to the writ petition but the same is not supported by any acknowledgement given

by the respondent. Secondly even assuming that the petitioner gave such an application seeking reference, nothing prevented him to approach this Court immediately. He waited almost for four years and filed this writ petition on 27.11.1997. In that view of the matter, the petitioner has not properly explained the delay and laches and the delayed cause cannot be entertained.

Therefore, the writ petition is dismissed. No costs.

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(**V.V.S.RAO, J**)

31st October, 2007
ghn